

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DEVIATION FROM REQUIREMENTS OF)
ADMINISTRATIVE REGULATION 807 KAR 5:066,) CASE NO. 2017-00335
SECTION 3(4)(B) REGARDING NOTICE TO)
COMMISSION)

ORDER

The Commission, on its own motion, opens this case to relieve water utilities from the undue burden of filing certain written reports that are duplicative and unnecessary. The Commission's jurisdiction extends to the rates and service of utilities,¹ including utilities that are engaged in the "diverting, developing, pumping, impounding, distributing, or furnishing of water to or for the public for compensation."² The Commission has a regulation that requires water utilities to file certain reports with us relating to subjects including boil-water advisories issued due to water-line breaks and water testing results. That regulation, 807 KAR 5:066, Section 3(4)(b), states:

Report to the commission. If a utility is required by the Natural Resources Cabinet [now the Energy and Environment Cabinet] to make a public notification pursuant to administrative regulations of the Natural Resources Cabinet, the utility shall provide the commission with a copy of the public notification when it is made.

The Commission has the authority under 807 KAR 5:066, Section 18, to permit deviations from this administrative regulation in special cases, for good cause shown.

¹ KRS 278.040.

² KRS 278.010(3)(d).

DISCUSSION

Kentucky, through the Energy and Environment Cabinet (“EEC”), Department for Environmental Protection (“DEP”), Division of Water (“DOW”), has primary enforcement responsibility, or “primacy,” for the Safe Drinking Water Act, 42 U.S.C. § 300f, et seq.³ Pursuant to the Safe Drinking Water Act and per the federal regulations of U.S. Environmental Protection Agency (“EPA”), the owner or operator of a public water system shall provide public notifications as established by 40 CFR Part 141, Sub-part Q. As part of its enforcement authority, the DOW has a regulation, 401 KAR 8:070, Section 1, addressing public notification requirements for Kentucky’s public water systems, which include water utilities regulated by the Commission.

Water utilities are required by 807 KAR 5:066, Section 3(4)(b), to provide the Commission with a copy of a public notification required to be made by the utility pursuant to 401 KAR 8:070, Section 1. The Commission finds that it does not administer or enforce the Safe Drinking Water Act and that issues concerning compliance with and enforcement of these public notification requirements are matters for DOW, not the Commission.

The Commission now receives daily updates from DOW regarding the public notifications that are required to be issued by water utilities, and the Commission has access to the public notification material submitted to DOW per 401 KAR 8:070, Section 1. Thus, the Commission has the ability to monitor public notifications and access public notification material through cooperation with DOW. For these reasons, the filing of a copy of the public notification with the Commission by a water utility is duplicative of information required to be filed with DOW by the water utility and creates an undue

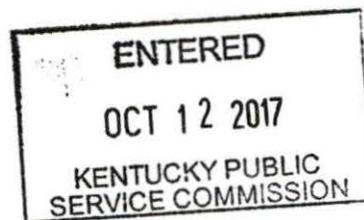
³ Kentucky DOW, Drinking Water website. See <http://water.ky.gov/DrinkingWater/Pages/default.aspx> (last visited September 24, 2017).

burden. Therefore, the Commission, on its own motion, finds that its access, through DOW, to the information required by 807 KAR 5:066, Section 3(4)(b), presents a special case and supports a finding of good cause to grant water utilities a deviation from the requirements of this administrative regulation.

IT IS HEREBY ORDERED that:

1. A permanent deviation from filing with the Commission of the report required by 807 KAR 5:066, Section 3(4)(b), is granted and approved for all jurisdictional water utilities effective on and after the date of this Order.
2. The Executive Director shall serve a copy of this Order by electronic transmission on each jurisdictional water utility.
3. This case is closed and removed from the Commission's docket.

By the Commission



ATTEST:


Executive Director

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Estill County Water District #1
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Irvine, KY 40336

*Big Sandy Water District
Big Sandy Water District
18200 Kentucky Route #3
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*Boone County Water District
Boone County Water District
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*Allen County Water District
Allen County Water District
330 New Gallatin Road
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*Beech Grove Water System, Inc.
Beech Grove Water System, Inc.
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*West Carroll Water District
West Carroll Water District
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*Center Ridge Water District No. 2
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Breathitt County Water District
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East Casey County Water District
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Black Mountain Utility District
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Judy Water Association, Inc.
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Barkley Lake Water District
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Levee Road Water Association, Inc.
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Buffalo Trail Water Association, Inc.
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Bath County Water District
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North Marshall Water District
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*Cumberland County Water District
Cumberland County Water District
133 Lower River Street
Burkesville, KY 42717-9622

*Cumberland Falls Highway Water Distr
Cumberland Falls Highway Water District
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*Southern Water & Sewer District
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*Elkhorn Water District
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Eastern Rockcastle Water Association, Inc.
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*Francis Water Company, Inc.
Francis Water Company, Inc.
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*Wood Creek Water District
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Gallatin County Water District
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*North Shelby Water Company
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*East Pendleton Water District
East Pendleton Water District
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*Whitley County Water District #1
Whitley County Water District #1
19 S Highway 25W
Williamsburg, KY 40769

*Webster County Water District
Webster County Water District
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P. O. Box 320
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Western Lewis-Rectorville Water and Gas District
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Maysville, KY 41056-9344

*East Clark County Water District
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Western Mason County Water District
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